

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 571

Introduced by Senator Wolk

(Coauthor: Assembly Member Huber)

February 17, 2011

An act to amend Section 10546 of, and to add Sections 167 and 168 to, the Water Code, relating to the California Water Commission. An act to amend Sections 150, 160, 163, 10004.5, 10005.1, and 10005.2 of, to amend, renumber, and add Section 10004 of, to add Sections 163.6, 163.7, 167, 10004.2, 10004.3, and 10004.4 to, to add Division 8 (commencing with Section 16500) to, to repeal Sections 162 and 10004.6 of, and to repeal and add Section 163.5 of, the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 571, as amended, Wolk. California Water Commission: ~~master plan for financing and developing water resources: state-funded projects and programs~~ *California Water Plan: water resources investment.*

(1) Existing law establishes the California Water Commission in the Department of Water Resources and requires the commission to conduct an annual review of the progress and operation of the State Water Project and to carry out various other related functions. *Existing law requires the members of the commission to select a chairperson, and authorizes the commission to employ an executive officer and other staff from the staff of the department. The commission is also authorized to employ clerical assistants. Existing law requires the department to furnish the commission with assistance, including technical, legal, and clerical services.*

This bill would provide for the organization of the commission as a separate agency in state government, instead of as an agency within the Department of Water Resources. The bill would recast and revise provisions relating to the commission's selection of a chairperson and executive officer employment of staff, and delegation of its functions.

The bill would also enact the Water Resources Investment Planning Act, and would declare legislative intent relating to the establishment of regional water planning agencies and the development of the California Water Investment Plan. The bill would require the commission to administer the development and implementation of the California Water Investment Plan.

(2) Existing law requires the department to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as the California Water Plan. Existing law prescribes various requirements for the contents of updates to the plan, and requires the department, or the commission at the department's request, to conduct hearings relative to the plan.

This bill would instead require the commission to update the plan by an unspecified date, and every 5 years thereafter. The bill would require the plan to include reports developed by the department and regional water planning agencies established pursuant to the Water Resources Investment Planning Act. The bill would require the department and the regional agencies to submit those reports to the commission by an unspecified date, would prescribe the contents of the reports, and would require the department and regional agencies to collaborate and consult with specified agencies and entities for purposes of developing the reports. The bill would recast, and make conforming changes to, requirements for the contents of updates to the plan. The bill would also require the commission, instead of the department, to conduct hearings relative to the plan.

~~This bill would require the commission on or before January 1, 2013, to develop a master plan for financing and developing water resources in the state, including specified assessments and recommendations. The bill would require the commission to update the master plan every 5 years. The bill would require the commission to annually review and audit the award of state funds for water resources projects and programs; to develop, consistent with the master plan, a prioritized list of projects and programs relating to water supply, water quality, water conservation, water use efficiency, ecosystem and watershed restoration, and~~

~~integrated regional water management planning and implementation, for purposes of awarding state financial assistance for those projects and programs; and to establish guidelines for the award of state financial assistance allocated for integrated regional water management plans, as specified. The bill would also declare legislative intent that the commission be given authority to allocate specified state funds for water resources projects and programs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
3 (a) *Numerous state agencies have a role in developing and*
4 *implementing plans to improve one or more aspects of the state's*
5 *water resources. These agencies develop and implement plans*
6 *focused solely on their respective legal mandate. There is often*
7 *little coordination among agencies, resulting in significant gaps*
8 *in addressing the state's pressing water resources needs.*
9 (b) *Under Section 10005 of the Water Code, it the policy of the*
10 *state that the California Water Plan, with any necessary*
11 *amendments, supplements, and additions to the plan, is accepted*
12 *as the master plan that guides the orderly and coordinated control,*
13 *protection, conservation, development, management, and efficient*
14 *utilization of the water resources of the state.*
15 (c) *The original California Water Plan, also known as Bulletin*
16 *3, contained detailed tables describing specific projects that the*
17 *plan recommended for consideration. These tables described the*
18 *location, potential yield, purpose, and estimated cost of each*
19 *proposal. However, recent updates of the California Water Plan*
20 *have provided little insight as to specific types of investments*
21 *necessary to address California's water needs. The plan is*
22 *especially quiet on addressing drinking water quality, water quality*
23 *for other beneficial uses, flood management, ecosystem restoration,*
24 *and other water resources related problems. Moreover, there is*
25 *virtually no discussion of the amount of funding necessary to*
26 *implement the recommendations of the plan.*
27 (d) *Current reliance on general obligation bonds, coupled with*
28 *continued and growing budget gaps, requires the Legislature to*

1 *weigh the need for water infrastructure against the need to provide*
2 *vital public services during a period of greatly reduced revenues.*

3 *(e) There is a need for a new water resource financing*
4 *governance strategy that includes greater transparency, a broader*
5 *use of available funding mechanisms, and a stronger focus on*
6 *prioritization and strategic investments.*

7 *SEC. 2. The Legislature further finds and declares all of the*
8 *following:*

9 *(a) In comparison to water funding decisionmaking,*
10 *transportation funding decisions are made in a reasonably*
11 *predictable and transparent process. The Department of*
12 *Transportation and the various regional transportation planning*
13 *agencies all have well-defined roles for identifying projects to*
14 *resolve regional and interregional transportation issues. The*
15 *California Transportation Commission acts as the independent*
16 *overseer of the transportation financing process, adopting a*
17 *funding estimate, establishing the guidelines for updating the state*
18 *transportation improvement plan, and resolving the occasional*
19 *conflict of perspectives between the Department of Transportation*
20 *and the regional transportation planning agencies.*

21 *(b) Much of the success of the transportation financing process*
22 *is the result of clearly delineated and independent roles and*
23 *responsibilities, established in statute, for the California*
24 *Transportation Commission, the Department of Transportation,*
25 *and the regional transportation planning agencies.*

26 *SEC. 3. It is the intent of the Legislature, in enacting this*
27 *measure, to do all of the following:*

28 *(a) Revise the requirements of the California Water Plan to*
29 *make it more comprehensive, clearly assessing the costs of*
30 *potential action.*

31 *(b) Establish the California Water Commission as an*
32 *independent agency in state government.*

33 *(c) Establish a process for the California Water Commission*
34 *to develop and adopt the California Water Investment Plan, which*
35 *would be similar to the state transportation improvement plan.*

36 *(d) Establish a process for the California Water Commission*
37 *to make funding allocations for specific projects and programs,*
38 *including bond proceeds and other funds that may be made*
39 *available to the state from state and federal sources.*

1 (e) Establish a process to develop state and regional water
2 investment priorities, establish regional water resources planning
3 agencies, and establish a water resources planning and funding
4 process that is similar to that used in transportation planning and
5 funding.

6 SEC. 4. Section 150 of the Water Code is amended to read:

7 150. ~~There is in the Department of Water Resources the The~~
8 California Water Commission is established as an agency in state
9 government.

10 SEC. 5. Section 160 of the Water Code is amended to read:

11 160. The members of the California Water Commission shall
12 select one of the members to serve as ~~chairman, who shall hold~~
13 ~~office as chairman at the pleasure of the commission~~ chairperson,
14 who shall serve ____.

15 SEC. 6. Section 162 of the Water Code is repealed.

16 ~~162. It is the intention of the Legislature that in the making of~~
17 ~~all major departmental determinations, policies and procedures,~~
18 ~~such as departmental recommendations to the Legislature, the~~
19 ~~director and the California Water Commission shall be in~~
20 ~~agreement whenever possible; but for the purpose of fixing~~
21 ~~responsibility to the Governor and to the Legislature, in the event~~
22 ~~of disagreement between the director and the commission upon~~
23 ~~such matters, the views of the director shall prevail. In the event~~
24 ~~of disagreement pursuant to this section, a written report upon such~~
25 ~~disagreement shall be made immediately to the Governor and to~~
26 ~~the President pro Tempore of the Senate and the Speaker of the~~
27 ~~Assembly by the commission and by the director.~~

28 SEC. 7. Section 163 of the Water Code is amended to read:

29 163. The commission ~~may employ~~ shall appoint an executive
30 ~~officer, director, who shall be exempt from civil service; under~~
31 subdivision (e) of Section 4 of Article XXIV of the Constitution;
32 ~~and a staff engineer from the staff of the department who shall be~~
33 responsible to the commission. The commission may also employ
34 such clerical assistants as may be necessary for the proper discharge
35 of its duties and may purchase or rent necessary supplies,
36 ~~instruments, tools, equipment and conveniences and shall serve~~
37 ~~at the pleasure of the commission. The executive director shall~~
38 ~~administer the affairs of the commission as directed by the~~
39 ~~commission and shall direct the staff of the commission.~~

40 SEC. 8. Section 163.5 of the Water Code is repealed.

~~163.5. The department shall furnish to the California Water Commission, at its request, such assistance, including technical, legal, and clerical services, as is required to the extent funds are made available therefor.~~

SEC. 9. Section 163.5 is added to the Water Code, to read:

163.5. (a) The executive director, with the approval of the commission, may appoint such staff as is necessary to implement this article.

(b) (1) The commission may request the department to, and the department may, perform such work as the commission deems necessary to carry out the commission's duties and responsibilities. The commission shall consider the expertise and resources available in the department for purposes of carrying out its duties and responsibilities.

(2) Nothing in this subdivision shall be construed to prohibit the commission from utilizing the services of any other public or private agency.

(c) The commission may employ its own legal staff, may contract with other state agencies for legal services, or both.

SEC. 10. Section 163.6 is added to the Water Code, to read:

163.6. The commission may sue or be sued.

SEC. 11. Section 163.7 is added to the Water Code, to read:

163.7. Except where a statute expressly provides that the commission itself shall hold a public hearing, the commission may delegate functions such as hearing arguments, taking evidence, and finding facts to committees or staff members of the commission. The committee or staff shall have the authority to recommend a decision to the commission.

SEC. 12. Section 167 is added to the Water Code, to read:

167. The commission shall administer the development and implementation of the California Water Investment Plan pursuant to Division 8 (commencing with Section 16500).

SEC. 13. Section 10004 of the Water Code is amended and renumbered to read:

~~10004.~~

10004.1. (a) The plan for the orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state, which is set forth and described in Bulletin No. 1 of the State Water Resources Board entitled "Water Resources of California," Bulletin No. 2 of the State Water

Resources Board entitled, “Water Utilization and Requirements of California,” and Bulletin No. 3 of the department entitled, “The California Water Plan,” with any necessary amendments, supplements, and additions to the plan, shall be known as “The California Water Plan.”

~~(b) (1) The department shall update The California Water Plan on or before December 31, 2003, and every five years thereafter. The department shall report the amendments, supplements, and additions included in the updates of The California Water Plan, together with a summary of the department’s conclusions and recommendations, to the Legislature in the session in which the updated plan is issued.~~

~~(2) The department shall establish an advisory committee, comprised of representatives of agricultural and urban water suppliers, local government, business, production agriculture, and environmental interests, and other interested parties, to assist the department in the updating of The California Water Plan. The department shall consult with the advisory committee in carrying out this section. The department shall provide written notice of meetings of the advisory committee to any interested person or entity that request the notice. The meetings shall be open to the public.~~

~~(3) The department shall release a preliminary draft of The California Water Plan, as updated, upon request, to interested persons and entities throughout the state for their review and comments. The department shall provide these persons and entities an opportunity to present written or oral comments on the preliminary draft. The department shall consider these comments in the preparation of the final publication of The California Water Plan, as updated.~~

(b) (1) The commission shall update the California Water Plan on or before December 31, ____, and every five years thereafter, in accordance with this chapter.

(2) Each update shall consist of both of the following:

(A) The report submitted by the department pursuant to Section 10004.2.

(B) The report developed pursuant Section 10004.3, including any changes made by the commission to resolve conflicts between that report and one or more of the regional draft reports developed pursuant to Section 10004.4.

1 (C) The reports developed pursuant to Section 10004.4,
2 including any changes made by the commission to resolve conflicts
3 between any of those reports and the report developed pursuant
4 to Section 10004.3.

5 SEC. 14. Section 10004 is added to the Water Code, to read:
6 10004. Unless the context otherwise requires, the following
7 definitions govern the construction of this chapter:

8 (a) "Commission" means the California Water Commission.

9 (b) "Regional water planning agency" means a regional water
10 planning agency established pursuant to Part 4 (commencing with
11 Section 16650) of Division 8.

12 SEC. 15. Section 10004.2 is added to the Water Code, to read:
13 10004.2. (a) On or before _____, the department, in
14 collaboration with the agencies listed in paragraph (1) of
15 subdivision (c), and in consultation with the agencies listed in
16 paragraph (2) of subdivision (c), shall conduct a study to evaluate
17 the current and future condition of the state's water resources and
18 the impact those conditions have or may have on natural resources
19 and on persons or entities that rely on those resources. The
20 department shall provide a report to the commission documenting
21 the results of the study.

22 (b) The study shall assess, at a minimum, all of the following:

23 (1) Water supply reliability.

24 (2) Water quality for beneficial uses.

25 (3) Drinking water quality.

26 (4) Flood management.

27 (5) Ecosystem functions.

28 (c) (1) For purposes of subdivision (a), the department shall
29 collaborate with all of the following:

30 (A) The State Water Resources Control Board.

31 (B) The State Department of Public Health.

32 (C) The Department of Fish and Game.

33 (D) The Delta Stewardship Council.

34 (E) The Central Valley Flood Protection Board.

35 (F) The United States Geological Survey.

36 (2) For purposes of subdivision (a), the department shall consult
37 with all of the following:

38 (A) Regional water planning agencies.

39 (B) Representatives of business interests.

40 (C) Representatives of agricultural interests.

1 (D) *Representatives of environmental interests.*

2 (E) *Representatives of natural resources-dependent industries.*

3 (F) *Representatives of disadvantaged communities, as defined*
4 *in Section 79505.5.*

5 (d) *The department shall collect from each collaborating agency*
6 *identified in paragraph (1) of subdivision (c), and shall make*
7 *available, all pertinent data and analyses upon which the study*
8 *will be based, to interested persons and entities throughout the*
9 *state for their review and comments. The department shall provide*
10 *these persons and entities an opportunity to present written or*
11 *oral comments on the data and analyses. The department shall*
12 *consider these documents when adopting the final data and*
13 *analyses for the study. For the purpose of carrying out this*
14 *subdivision, the department shall release, at a minimum, data and*
15 *analyses relating to all of the following:*

16 (1) *Basin hydrology, including annual rainfall, estimated*
17 *unimpaired streamflow, depletions, and consumptive uses.*

18 (2) *Groundwater supplies, including estimates of sustainable*
19 *yield, supplies necessary to recover overdraft basins, and supplies*
20 *lost due to pollution and other groundwater contaminants.*

21 (3) *Current and projected land use patterns, including the mix*
22 *of residential, commercial, industrial, agricultural, and*
23 *undeveloped lands.*

24 (4) *Environmental water needs, including regulatory instream*
25 *flow requirements, nonregulated instream uses, and water needs*
26 *by wetlands, preserves, refuges, and other managed and*
27 *unmanaged natural resource lands.*

28 (5) *Current and projected population.*

29 (6) *Current and projected water use for all of the following:*

30 (A) *Interior uses in a single-family dwelling.*

31 (B) *Exterior uses in a single-family dwelling.*

32 (C) *All uses in a multifamily dwelling.*

33 (D) *Commercial uses.*

34 (E) *Industrial uses.*

35 (F) *Parks and open spaces.*

36 (G) *Agricultural water diversion and use.*

37 (7) *Evapotranspiration rates for major crop types, including*
38 *estimates of evaporative losses by irrigation practice and the extent*
39 *to which evaporation reduces transpiration.*

1 (8) *Current and projected adoption of urban and agricultural*
2 *conservation practices.*

3 (9) *Current and projected supplies of water provided by water*
4 *recycling and reuse.*

5 SEC. 16. *Section 10004.3 is added to the Water Code, to read:*

6 10004.3. (a) *On or before _____, the department, in*
7 *collaboration with the agencies listed in paragraph (1) of*
8 *subdivision (b), and in consultation with the agencies listed in*
9 *paragraph (2) of subdivision (b), shall provide a draft report to*
10 *the commission recommending programs, policies, and facilities*
11 *to address impacts of statewide and interregional concern*
12 *identified in the report developed pursuant to subdivision (a).*

13 (b) (1) *The department shall collaborate with all of the*
14 *following:*

15 (A) *The State Water Resources Control Board.*

16 (B) *The State Department of Public Health.*

17 (C) *The Department of Fish and Game.*

18 (D) *The Delta Stewardship Council.*

19 (E) *The Central Valley Flood Protection Board.*

20 (F) *The United States Geological Survey.*

21 (2) *The department shall consult with all of the following:*

22 (A) *Regional water planning agencies.*

23 (B) *Representatives of business interests.*

24 (C) *Representatives of agricultural interests.*

25 (D) *Representatives of environmental interests.*

26 (E) *Representatives of natural resources-dependent industries.*

27 (F) *Representatives of disadvantaged communities, as defined*
28 *in Section 79505.5.*

29 (c) *The draft report shall reflect recommendations and planned*
30 *actions included in all of the following:*

31 (1) *The Delta Plan adopted by the Delta Stewardship Council*
32 *pursuant to Section 85300.*

33 (2) *The Central Valley Flood Protection Plan adopted by the*
34 *Central Valley Flood Protection Board pursuant to Section 9612.*

35 SEC. 17. *Section 10004.4 is added to the Water Code, to read:*

36 10004.4. (a) *On or before _____, each regional water planning*
37 *agency shall provide a report to the commission identifying, and*
38 *recommending, programs, policies, and facilities to address,*
39 *impacts of regional and local concern.*

1 *(1) For purposes of this subdivision, each regional water*
2 *planning agency shall consult with all of the following:*

3 *(A) The Department of Water Resources.*

4 *(B) The State Water Resources Control Board.*

5 *(C) The State Department of Public Health.*

6 *(D) The Department of Fish and Game.*

7 *(E) The Delta Stewardship Council.*

8 *(F) The Central Valley Flood Protection Board.*

9 *(G) The United States Geological Survey.*

10 *(2) Each regional water planning agency's report shall reflect*
11 *recommendations and planned actions included in all of the*
12 *following plans that are within the geographic area served by the*
13 *regional water planning agency:*

14 *(A) Integrated regional water management plans adopted*
15 *pursuant to Part 2.2 (commencing with Section 10530) of Division*
16 *6.*

17 *(B) Urban water management plans adopted pursuant to Part*
18 *2.6 (commencing with Section 10610) of Division 6.*

19 *(C) Agricultural water management plans adopted pursuant to*
20 *Part 2.8 (commencing with Section 10800) of Division 6.*

21 *(D) Stormwater resource plans adopted pursuant to Part 2.3*
22 *(commencing with Section 10560) of Division 6.*

23 *(b) The California Water Commission shall resolve any conflicts*
24 *between the draft report submitted pursuant to Section 10004.3*
25 *and the draft reports submitted pursuant to this section, and may*
26 *make changes to the draft report submitted pursuant to Section*
27 *10004.3 and any reports submitted pursuant to this section, as*
28 *may be deemed necessary by the commission.*

29 *SEC. 18. Section 10004.5 of the Water Code is amended to*
30 *read:*

31 *10004.5. As part of the requirement of the department to update*
32 *the to submit reports for purposes of updating the California Water*
33 *Plan pursuant to subdivision (b) of Section 10004 this chapter, the*
34 *department and each regional water planning agency shall include*
35 *in the plan in their respective reports pursuant to Sections 10004.3*
36 *and 10004.4, a discussion of various strategies, including, but not*
37 *limited to, those relating to the development of new water storage*
38 *facilities, water conservation, water recycling, desalination,*
39 *conjunctive use, and water transfers that may be pursued in order*
40 *to meet the future water needs of the state or the respective region.*

1 The department *and each regional water planning agency* shall
2 also include a discussion of the potential for alternative water
3 pricing policies to change current and projected uses. The
4 department *and each regional water planning agency* shall include
5 ~~in the plan~~ a discussion of the potential advantages and
6 disadvantages of each strategy, *an estimate of the anticipated cost*
7 *of implementing each strategy*, and an identification of all federal
8 and state permits, approvals, or entitlements that are anticipated
9 to be required in order to implement the various components of
10 the strategy.

11 *SEC. 19. Section 10004.6 of the Water Code is repealed.*

12 ~~10004.6.—(a) As part of updating The California Water Plan~~
13 ~~every five years pursuant to subdivision (b) of Section 10004, the~~
14 ~~department shall conduct a study to determine the amount of water~~
15 ~~needed to meet the state's future needs and to recommend~~
16 ~~programs, policies, and facilities to meet those needs.~~

17 ~~(b) The department shall consult with the advisory committee~~
18 ~~established pursuant to subdivision (b) of Section 10004 in carrying~~
19 ~~out this section.~~

20 ~~(c) On or before January 1, 2002, and one year prior to issuing~~
21 ~~each successive update to The California Water Plan, the~~
22 ~~department shall release a preliminary draft of the assumptions~~
23 ~~and other estimates upon which the study will be based, to~~
24 ~~interested persons and entities throughout the state for their review~~
25 ~~and comments. The department shall provide these persons and~~
26 ~~entities an opportunity to present written or oral comments on the~~
27 ~~preliminary draft. The department shall consider these documents~~
28 ~~when adopting the final assumptions and estimates for the study.~~
29 ~~For the purpose of carrying out this subdivision, the department~~
30 ~~shall release, at a minimum, assumptions and other estimates~~
31 ~~relating to all of the following:~~

32 ~~(1) Basin hydrology, including annual rainfall, estimated~~
33 ~~unimpaired streamflow, depletions, and consumptive uses.~~

34 ~~(2) Groundwater supplies, including estimates of sustainable~~
35 ~~yield, supplies necessary to recover overdraft basins, and supplies~~
36 ~~lost due to pollution and other groundwater contaminants.~~

37 ~~(3) Current and projected land use patterns, including the mix~~
38 ~~of residential, commercial, industrial, agricultural, and undeveloped~~
39 ~~lands.~~

1 ~~(4) Environmental water needs, including regulatory instream~~
2 ~~flow requirements, nonregulated instream uses, and water needs~~
3 ~~by wetlands, preserves, refuges, and other managed and unmanaged~~
4 ~~natural resource lands.~~

5 ~~(5) Current and projected population.~~

6 ~~(6) Current and projected water use for all of the following:~~

7 ~~(A) Interior uses in a single-family dwelling.~~

8 ~~(B) Exterior uses in a single-family dwelling.~~

9 ~~(C) All uses in a multifamily dwelling.~~

10 ~~(D) Commercial uses.~~

11 ~~(E) Industrial uses.~~

12 ~~(F) Parks and open spaces.~~

13 ~~(G) Agricultural water diversion and use.~~

14 ~~(7) Evapotranspiration rates for major crop types, including~~
15 ~~estimates of evaporative losses by irrigation practice and the extent~~
16 ~~to which evaporation reduces transpiration.~~

17 ~~(8) Current and projected adoption of urban and agricultural~~
18 ~~conservation practices.~~

19 ~~(9) Current and projected supplies of water provided by water~~
20 ~~recycling and reuse.~~

21 ~~(d) The department shall include a discussion of the potential~~
22 ~~for alternative water pricing policies to change current and~~
23 ~~projected water uses identified pursuant to paragraph (6) of~~
24 ~~subdivision (c).~~

25 ~~(e) Nothing in this section requires or prohibits the department~~
26 ~~from updating any data necessary to update The California Water~~
27 ~~Plan pursuant to subdivision (b) of Section 10004.~~

28 *SEC. 20. Section 10005.1 of the Water Code is amended to*
29 *read:*

30 10005.1. ~~The department or, at the department's request, the~~
31 ~~California Water Commission, commission~~ shall conduct a series
32 of hearings with interested persons, organizations, local, state, and
33 federal agencies, and representatives of the diverse geographical
34 areas and interests of the state.

35 *SEC. 21. Section 10005.2 of the Water Code is amended to*
36 *read:*

37 10005.2. Prior to holding a hearing pursuant to Section 10005.1,
38 ~~the department~~ *commission* shall give notice by mail of the hearing
39 to persons and entities which have requested notice and have
40 provided their name and address to the ~~department~~ *commission*.

1 *SEC. 22. Division 8 (commencing with Section 16500) is added*
2 *to the Water Code, to read:*

3
4 *DIVISION 8. WATER RESOURCES INVESTMENT PLANNING*

5
6 *PART 1. GENERAL PROVISIONS*

7
8 *16500. This division shall be known, and may be cited, as the*
9 *Water Resources Investment Planning Act.*

10 *16505. For purposes of this division, "commission" means the*
11 *California Water Commission.*

12 *16510. It is the intent of the Legislature, in enacting this*
13 *division, to create a process to develop state and regional water*
14 *investment priorities, establish regional water resources planning*
15 *agencies, and establish a water resources planning and funding*
16 *process that is similar to the process used for purposes of*
17 *transportation planning and funding.*

18
19 *PART 2. CALIFORNIA WATER INVESTMENT PLAN*

20
21 *16550. It is the intent of the Legislature, in enacting this*
22 *division, to do all of the following:*

23 *(a) Establish a process for the commission to develop and adopt*
24 *the California Water Investment Plan, which should be similar to*
25 *the state transportation improvement plan adopted pursuant to*
26 *Section 14529 of the Government Code. This process should*
27 *include all of the following:*

28 *(1) Development and adoption, by the commission, of a five-year*
29 *estimate of all funds reasonably expected to be available for*
30 *programs and projects related to water resources. The process*
31 *should be similar to the process described in Article 4.3*
32 *(commencing with Section 163) of Chapter 1 of Division 1 of the*
33 *Streets and Highways Code.*

34 *(2) Development and implementation, by state agencies, of a*
35 *state water investment plan pursuant to Part 3 (commencing with*
36 *Section 16600).*

37 *(3) Development and implementation, by regional water*
38 *planning agencies, of regional water investment plans pursuant*
39 *to Part 4 (commencing with Section 16650).*

1 (4) *Mediation, by the commission, of any disagreements between*
2 *or among the state agencies and regional water planning agencies.*
3 (b) *Establish the process for the commission to make funding*
4 *allocations for specific projects and programs, including bond*
5 *proceeds and other funds that may be made available to the state*
6 *from state and federal sources.*

7
8 **PART 3. STATE WATER INVESTMENT PLANNING**
9

10 16600. *It is the intent of the Legislature, in enacting this*
11 *division, to establish the process for state agencies to develop and*
12 *implement a state water investment plan.*

13 (a) *At a minimum, the following state agencies should be*
14 *involved in developing and implementing the state water investment*
15 *plan:*

16 (1) *The Department of Water Resources.*

17 (2) *The State Water Resources Control Board.*

18 (3) *The Department of Public Health.*

19 (4) *The Department of Fish and Game.*

20 (5) *The Delta Stewardship Council.*

21 (b) *The state water investment plan should be consistent with*
22 *the most recently adopted update to the California Water Plan.*

23
24 **PART 4. REGIONAL WATER RESOURCES INVESTMENT**
25 **PLANNING**
26

27 16650. *It is the intent of the Legislature, in enacting this*
28 *division, to do all of the following:*

29 (a) *Establish regional water planning agencies that would*
30 *perform a function similar to regional transportation planning*
31 *agencies.*

32 (1) *Regional water planning agencies should be organized into*
33 *_____ regions.*

34 (2) *Regional water planning agencies should include*
35 *representatives of, at a minimum, all of the following:*

36 (A) *Retail water agencies that principally serve agricultural*
37 *water users.*

38 (B) *Retail water agencies that principally serve nonagricultural*
39 *water users.*

40 (C) *Wholesale water agencies.*

1 (D) Wastewater management agencies.

2 (E) Stormwater management agencies.

3 (F) Cities.

4 (G) Counties.

5 (b) Establish the process for regional water planning agencies
6 to develop and implement regional water investment plans.

7 ~~SECTION 1. The Legislature finds and declares all of the~~
8 ~~following:~~

9 ~~(a) Numerous agency reports from the office of the Treasurer,~~
10 ~~the Little Hoover Commission, the State Auditor, and the~~
11 ~~Legislative Analyst's Office have expressed concern with the level~~
12 ~~of reliance on bond funds for water and resource related state~~
13 ~~expenditures, and the lack of oversight and prioritization of funding~~
14 ~~allocations associated with the current method of managing~~
15 ~~resource related bond funds. These reports call for a new water~~
16 ~~and resource financing governance strategy, one that includes~~
17 ~~greater transparency, a broader use of available funding~~
18 ~~mechanisms, and a stronger focus on prioritization and strategic~~
19 ~~investments.~~

20 ~~(b) The Treasurer has warned that continued reliance on general~~
21 ~~obligation bonds to finance the state's infrastructure, including~~
22 ~~water, will consume 10 percent or more of the state's General Fund~~
23 ~~by the middle of the next decade, unless the budget improves. The~~
24 ~~Treasurer estimated that debt service costs will be at historically~~
25 ~~high levels through the coming decade and beyond.~~

26 ~~(c) The Treasurer has further found that bond spending freezes~~
27 ~~in 2008 and 2009, in response to the budget crisis, halted 5,000~~
28 ~~infrastructure jobs, affected thousands of jobs for workers, billions~~
29 ~~of dollars in revenue for private businesses, and imperiled many~~
30 ~~community based and nonprofit organizations.~~

31 ~~(d) The office of the Treasurer has also noted that the state has~~
32 ~~virtually eliminated pay-as-you-go capital allocations and used~~
33 ~~the savings to finance operating expenses. This practice can lead~~
34 ~~to underinvestment or disinvestment in infrastructure. To avoid~~
35 ~~this practice, the Treasurer recommended that the Legislature and~~
36 ~~the Governor actively, consistently, and prudently make capital~~
37 ~~finance decisions an ongoing part of the budget process.~~

38 ~~(e) Current reliance on general obligation bonds, coupled with~~
39 ~~continued and growing budget gaps, requires the Legislature to~~

1 weigh the need for water infrastructure against the need to provide
2 vital public services during a period of greatly reduced revenues.

3 (f) The Little Hoover Commission recently reported that general
4 obligation bond debt accounted for 52 percent of the budget in the
5 Governor's proposed General Fund Expenditures for all Resources
6 and Environmental Protection in the 2010–11 fiscal year.

7 (g) In its report, "Managing for Change," the Little Hoover
8 Commission expressed concern about the state's use of bond
9 borrowing to fund ongoing operational expenses related to water
10 management. The commission further stated that the state's role
11 of managing and planning for California's future water use is not
12 a one-time investment, but part of the ongoing business of
13 government and, as such, requires a sustainable funding source,
14 either through fee revenue, General Fund support, or special fund
15 support.

16 (h) The Little Hoover Commission further recommended that
17 the Legislature be more assertive in oversight of bond expenditures
18 and be more strategic in how it prioritizes and finances
19 infrastructure investments.

20 (i) Addressing these concerns will better enable California to
21 meet its water supply, water quality, and water management needs
22 during difficult financial times.

23 SEC. 2. Section 167 is added to the Water Code, to read:

24 167. On or before January 1, 2013, the California Water
25 Commission shall develop, and shall update by January 1 every
26 five years thereafter, a master plan for financing and developing
27 water resources in the state. The master plan shall include all of
28 the following:

29 (a) An assessment of the state's capital outlay and ongoing
30 maintenance needs for water resources through 2050. In making
31 this assessment, the commission may use the most recent update
32 of the California Water Plan, if the commission determines that it
33 is sufficient to meet the requirements of this subdivision.

34 (b) Recommended guidelines for the Legislature and the
35 Governor to set and maintain investment priorities. The guidelines
36 should allow policymakers to adapt priorities to changing
37 circumstances, when necessary, without abandoning overall
38 planning objectives.

1 ~~(e) A determination of state, federal, and local public funds~~
2 ~~likely to be available through 2050, and the size of any funding~~
3 ~~shortfall that may remain.~~

4 ~~(d) Recommendations to the Legislature regarding a financing~~
5 ~~framework that, on an ongoing basis, fully integrates water~~
6 ~~resources needs, including capital investments, and ongoing~~
7 ~~operational expenses with the state budget process. The financing~~
8 ~~framework should include a recommended mix of state funding~~
9 ~~sources to pay for water infrastructure financing and ongoing~~
10 ~~operational needs, including General Fund, revenue bonds, and~~
11 ~~user fees.~~

12 ~~(e) An evaluation of the feasibility and applicability of~~
13 ~~alternative financing sources to meet the state's water resources~~
14 ~~needs and reduce reliance on General Fund expenditures.~~
15 ~~Alternatives to be evaluated shall include, but shall not be limited~~
16 ~~to, all of the following:~~

17 ~~(1) Private financing.~~

18 ~~(2) User fees.~~

19 ~~(3) Revenue bonds.~~

20 ~~(4) Fee-backed general obligation bonds.~~

21 ~~(5) Revolving loan programs.~~

22 ~~(f) An evaluation of the feasibility of meeting water resources~~
23 ~~needs through alternatives to capital outlay. Examples of these~~
24 ~~alternatives may include, but are not limited to, savings through~~
25 ~~life cycle financing and reducing the need for new infrastructure~~
26 ~~through greater efficiency.~~

27 ~~(g) Establishment of a means to measure the rate of return on~~
28 ~~water resources projects and mechanisms to finance the most~~
29 ~~cost-effective projects and the highest priority projects.~~

30 ~~(h) A timetable for capital outlay and ongoing expenditures.~~

31 ~~SEC. 3. Section 168 is added to the Water Code, to read:~~

32 ~~168. (a) It is the intent of the Legislature that the California~~
33 ~~Water Commission should be given authority to allocate state~~
34 ~~general obligation bond revenues and other state funds for water~~
35 ~~resources projects and programs consistent with the master plan~~
36 ~~developed pursuant to Section 167 and the prioritized list developed~~
37 ~~pursuant to subdivision (c).~~

38 ~~(b) The California Water Commission shall annually review~~
39 ~~and audit the expenditure of revenues from resource-related general~~
40 ~~obligation bonds that are appropriated for financing and developing~~

1 water resources projects and programs in the state, to ensure that
2 the intent and purposes of the applicable bond acts are met by the
3 agencies responsible for the allocation of state general obligation
4 bond revenues.

5 (e) Consistent with the master plan developed pursuant to
6 Section 167, the California Water Commission shall develop a
7 prioritized list of projects and programs that improve water supply;
8 water quality, water conservation, water use efficiency, ecosystem
9 and watershed restoration, and integrated regional water
10 management planning and implementation. The commission shall
11 award any state funds that are appropriated to the commission for
12 state financial assistance for any of those purposes, including funds
13 allocated pursuant to a general obligation bond act or any other
14 law, based on that prioritized list.

15 (d) To the extent consistent with any applicable general
16 obligation bond act or any other law appropriating state funds, for
17 the purposes described in this section, the commission shall ensure
18 that projects and programs funded by state general obligation bond
19 revenues and other state funds have developed strategic plans for
20 spending those state funds, that the projects and programs are
21 ranked by priority, and that performance measures and publicly
22 available progress reports are provided for the projects and
23 programs.

24 SEC. 4. Section 10546 of the Water Code is amended to read:

25 10546. (a) An integrated regional water management plan
26 prepared pursuant to this part shall be eligible for funding pursuant
27 to Section 75026 of the Public Resources Code, and for any funding
28 authorized on or after January 1, 2009, that is allocated specifically
29 for implementation of integrated regional water management.

30 (b) The California Water Commission shall establish guidelines,
31 including minimum qualifications and competitive criteria, for the
32 award of state financial assistance for integrated regional water
33 management plans prepared pursuant to this part.